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DD/A REGISTRY

FILE: Personnel

MEMORANDUM FOR: Director of Communications
Director of Data Processing
Director of Finance
Director of Information Services
Director of Logistics
Director of Medical Services
Director of Security
Director of Training and Education
MG Career Management Officer

FROM: William N. Hart
Associate Deputy Director for Administration

SUBJECT: Restoration of Forfeited Annual Leave

STAT REFERENCE:

1. Public Law 93-181, effective 14 December 1973, provides authority for the restoration of annual leave that was forfeited because of exigencies of the public business, illness or administrative error. Requests for restoration of forfeited annual leave, including supporting documentation, are to be sent to the Director of Finance by 30 April, immediately following the leave year in which the forfeiture occurred. This memorandum serves as a reminder that certain timely actions must be accomplished as a precondition to requesting restoration of annual leave:

A. Annual leave forfeited because of illness or exigencies of the public business must be requested in advance and in writing by the employee and approved in writing by the employee's supervisor prior to the beginning of the third biweekly pay period before the end of the leave year. For this year, the annual leave must be approved in writing prior to 29 November 1981.

B. Annual leave forfeited because of exigencies of the public business must be cancelled in writing and in advance of its beginning date, or, if already begun, the remaining part must be cancelled. In advance of, or concurrently with the written cancellation of the leave, the Deputy

Director for Administration is required to declare an exigency of the public business, and to determine that there is no reasonable alternative to the cancellation of the employee's scheduled leave because of work requirements generated by the exigency.

C. For leave forfeited because of an exigency of the public business, a memorandum should be written for Deputy Director for Administration's approval to request the establishment of an exigency, specifying the beginning and ending dates for the exigency, and to cancel the previously scheduled and approved leave.

2. To ensure the timely and appropriate application for restoration of forfeited annual leave, please ensure that all of your managers and supervisors are familiar with the specific guidelines detailed in the referenced handbook. If there are any questions regarding restoration of forfeited annual leave, please contact [redacted] in the DDA/Career Management Office [redacted]

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William N. Hart

cc: C/Personnel Subgroups

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(30 October 1981)

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- (c) When an employee [] on 21 August 1959 had annual leave credit on that date in excess of thirty days.
- (d) When an employee assigned outside the United States, who has been eligible for an accumulation of forty-five days, becomes subject to the thirty-day limitation in paragraph 2c(1)(c) above.
- (3) Leave for Special Situations. Special rules apply to personnel in certain cover circumstances as described []

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d. RESTORATION OF FORFEITED ANNUAL LEAVE

- (1) General. Public Law 93-181, effective 14 December 1973, provides authority under certain conditions for the temporary restoration to a separate leave account of annual leave forfeited because of exigencies of the public business, illness, or administrative error.
- (2) Administrative Error. Annual leave forfeited because of an administrative error may be restored if the leave was accruable after 30 June 1960, even if the error occurred before 30 June 1960. The law provides authority to make payment to former employees (separated on or after 14 December 1973) who forfeited annual leave because of administrative error that is not discovered until after separation. A claim must be filed within three years after discovery of the error. If the error is discovered by the Agency, the Office of Finance will notify the former employee of entitlement to payment and provide instructions on filing a claim. If official records are not available to substantiate the amount of annual leave for which payment is claimed, the former employee may estimate the amount of leave forfeited in a statement that clearly sets forth the factors that form the basis of the estimate. The Director of Personnel will determine the validity of such claims.
- (3) Illness or Exigencies of the Public Business
- (a) Advance Scheduling. As a precondition to restoration, annual leave forfeited because of illness or exigencies of the public business must have been requested in advance in writing by the employee and approved in writing by the employee's supervisor prior to the beginning of the third biweekly pay period before the end of the leave year. Because Public Law 93-181 requires advance scheduling and allows no exceptions to this requirement, employees wishing to be in a position to have forfeited leave restored are encouraged to request leave early enough in the leave year to enable the supervisor to approve the leave based on staffing requirements and available personnel resources.

(b) Illness. Annual leave forfeited because of illness may be restored provided the annual leave was scheduled in writing and approved in writing prior to the start of the third biweekly pay period before the end of the leave year and provided that the period of absence due to the sickness occurred so late in the leave year or was of such duration that the annual leave could not be rescheduled for use before the end of the year to avoid the forfeiture.

(c) Exigencies of the Public Business

(1) Annual leave forfeited because of exigencies of the public business may be restored provided that:

- (a) The leave was scheduled for use IN ADVANCE IN WRITING AND APPROVED IN WRITING PRIOR TO THE START OF THE THIRD BIWEEKLY PAY PERIOD BEFORE THE END OF THE LEAVE YEAR.
- (b) The leave was then CANCELLED IN WRITING IN ADVANCE OF ITS BEGINNING DATE OR, IF ALREADY BEGUN, THE REMAINING PART WAS CANCELLED BY AN AUTHORIZED OFFICER OUTSIDE OF THE IMMEDIATE ORGANIZATIONAL UNIT OF THE EMPLOYEE AFFECTED BY THE DECISION. Authorized officers for this purpose are the principal officers identified below or the designated single senior subordinate of each;

DCI - For employees in the immediate offices of the Director or the Deputy Director of Central Intelligence.

DDCI - For employees of the Independent Offices and for employees in the immediate offices of the Deputy Directors for Operations, Science and Technology, National Foreign Assessment, Resource Management, and Collection Tasking.

Deputy Directors - For employees other than in the immediate offices of the respective directorates.

- (c) There was insufficient time remaining in the leave year to permit rescheduling and use of the cancelled leave.

(2) IN ADVANCE OF OR CONCURRENTLY WITH WRITTEN CANCELLATION OF THE LEAVE, THE AUTHORIZED OFFICER ALSO WILL DETERMINE IN WRITING:

- (a) That the exigency is of such importance that the employees (usually two or more) responsible for a

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particular function or activity cannot be excused from duty to use scheduled annual leave during the exigency.

- (b) That there is no reasonable alternative to the cancellation of the scheduled leave of the employees who will forfeit annual leave because of work requirements generated by the exigency.
 - (c) A beginning and ending date for the exigency unless prevented by the suddenness of the exigency or uncertainty as to its duration, in which case the dates will be established after the fact.
- (3) The requirement that the determination of exigency, the cancellation of leave, and the finding that there is no reasonable alternative to the cancellation be in writing and in advance as specified above may be waived by the Deputy Director for Administration only on a finding that the suddenness of the exigency precluded such "in writing in advance" action. This waiver authority may not be delegated.
- (4) Following are examples of exigencies that may require the cancellation of scheduled leave:
- (a) Several employees in a component had scheduled two weeks of leave for a specific period. About a week before their leave began, there was a sudden crisis which, it was estimated, would last a month. A memorandum setting forth the details was prepared, and the authorized officer determined the situation to be an exigency of the public business.
 - (b) A chief of an installation died and the deputy chief became the acting chief. As acting chief, he or she could not leave the post to take scheduled annual leave. A memorandum describing the situation was prepared and the authorized officer determined that it constituted an exigency of the public business.
 - (d) Rescheduling Requirement. Any scheduled leave canceled because of an exigency or not taken because of illness must be rescheduled for use during any remaining work days in the leave year to the fullest extent possible in order for any such canceled leave that is forfeited to be eligible for restoration. Any leave scheduled and taken subsequent to an exigency or illness will include the leave canceled because of the exigency or illness, unless the leave had

already been scheduled for use prior to the start of the exigency or illness and prior to the start of the third biweekly pay period before the end of the leave year. Workload considerations will not be accepted as the basis for failing to reschedule and take annual leave because the ending date of the exigency is the date on which the authorized officer concerned has determined that the employee can resume taking leave. Forfeited leave otherwise eligible for restoration may be restored only to the extent it exceeds the number of work hours remaining in the leave year following the ending date of the final exigency or illness. Work hours for this purpose are all regularly scheduled tour of duty hours for which the employee is not in an authorized leave status, provided in the case of authorized annual leave that it had been approved for use prior to the start of the third biweekly pay period before the end of the leave year. Following are examples of the rescheduling requirement:

- (1) An employee scheduled ten days of annual leave for the two workweeks beginning 1 December 1974 and 8 December 1974. On 9 December 1974, while on annual leave, the employee became ill. The employee subsequently recovered and returned to duty on 26 December 1974. The period of illness was charged to sick leave, and the employee thereby used only five of the ten days of scheduled annual leave. As there were six workdays remaining in the leave year, no leave was eligible for restoration as the employee had time within the 1974 leave year to use the balance of five days of annual leave canceled because of illness.
- (2) Under the same circumstances as example (1), if the employee had not been able to return to duty until 6 January 1975, the employee would have been eligible for restoration of the five days of canceled annual leave for use no later than the end of the leave year ending two years after 6 January 1975; i.e., 31 December 1977.
- (3) If, instead of an illness discussed in examples (1) and (2), an exigency had been declared for the period 9 December 1974 to 25 December 1974 and scheduled leave canceled, the employee would have returned to work on 9 December. The employee, therefore, would have been required to reschedule and use the five days of canceled leave prior to the end of the leave year or allow it to be forfeited without eligibility for restoration. If the exigency had been declared to end on 5 January 1975, the five days of canceled leave would have been eligible for restoration as in example (2).

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(4) Requests for Restoration of Forfeited Annual Leave

- (a) A request for restoration of forfeited annual leave canceled because of an exigency or illness should be prepared in accordance with the sample format provided in figure 2. Although the scheduled leave forfeited may have been canceled and rescheduled more than once, only the date and details of the last scheduled leave need be documented. The following must be attached in support of the request:

- (1) Documentation (Standard Form 71, Application for Leave, or a memorandum) showing the period for which leave was scheduled, the number of days and hours scheduled, the date on which the leave was approved, and the signature of the approving official.
- (2) For leave canceled because of an exigency of the public business, a copy of the memorandum of the authorized officer establishing an exigency, setting the beginning and ending dates for the exigency, and canceling the previously scheduled and approved leave.
- (3) For leave not taken because of illness, a statement from the employee describing the illness and indicating the beginning and ending date of the illness.

- (b) A request for restoration of forfeited annual leave, including supporting documentation, should be sent to the Director of Finance by 30 April immediately following the leave year in which the forfeiture occurred.

(5) Administration of Restored Annual Leave

- (a) The Director of Finance will review all requests for restoration of forfeited annual leave to confirm compliance with the requirements of this handbook. A separate leave account will be established for each employee whose request for restoration of forfeited leave is approved. The employee will be informed of the establishment of the separate leave account and of the expiration date for use of the leave.
- (b) The employee has two years within which restored annual leave must be used. The two-year period begins with one of the following dates:
 - (1) The date of restoration of annual leave forfeited because of an administrative error.
 - (2) The date established as the ending date of an exigency that resulted in forfeiture of annual leave.

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- (3) The date the employee is determined to be able to return to duty if the leave was forfeited because of illness.

The ending date of the time limit is the end of the leave year in which the end of the second year (counting from one of the starting dates above) occurs. Restored leave unused at the expiration of the time limit is forfeited with no further right to restoration.

- (c) The restored annual leave credited in a separate leave account does not in any way increase or change the employee's normal maximum permissible carry-over of annual leave into a new leave year. The separate leave account will identify the date the leave was restored, the amount of leave credited, the amount used, and the balance.
- (d) In reporting the use of restored leave, the time and attendance clerk will enter in the "Remarks" section on the reverse side of the regular Time and Attendance Report (Form 20 or 20d) the total number of hours of restored leave used and will reference these remarks by marking an "X" in the space provided below Box C on the face of the form. The Time and Attendance Report Control List also will be annotated with "Restored Leave Used" opposite the employee's name. In addition, the use of restored leave will be reported separately (see figure 3) and submitted with the regular time and attendance forms at the end of each pay period in which restored leave is used. This separate documentation is required to facilitate manual processing, which is required by the Compensation Division, Office of Finance.
- (6) Restoration of Annual Leave Forfeited by Employees While in a Missing Status. An employee returned from a missing status has the option of accepting a lump-sum payment for the restored annual leave or allowing the leave to be credited to a separate account for use within a time limit established by the Director of Personnel.

e. ADVANCE ANNUAL LEAVE

- (1) Annual leave up to the amount that will accrue by the close of the leave year may be advanced to an employee who has been appointed for ninety days or longer or who has completed ninety days of continuous service, except that an employee holding a limited appointment expiring on a specified date within the current leave year may not be advanced more annual leave than would accrue during the remaining period of the appointment. If circumstances prevent the employee from earning the advanced annual leave by the end of the leave

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